

THE BLUE SHEET

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ACTING EDITOR: GAYLE BAIRD

CALENDAR & JOURNAL OF THE 2005 SESSION - HOUSE & SENATE

- The Governor's Commission on Disability's Ad Hoc committee on Legislative Review has begun the review process for this session's bills pertaining to disability. Currently bills are still being entered into the system and as they become available, the committee will review them for relevance.
- During the Legislative session, the Governor's Commission on Disability monitors House and Senate Bills pertaining to disability. Each week bills are tracked as they progress through the process. If you would like to receive weekly legislative updates, send your name, address, telephone number and e-mail address to Gayle.Baird@NH.Gov and we will add you to our mailing list. For a complete listing of house and senate legislation, go to: www.gencourt.state.nh.us

DEPARTMENT OF JUSTICE FORMAL SETTLEMENTS

- The **City of Pueblo, Colorado**, signed an agreement an initiative by the DoJ to ensure that local governments comply with the ADA. This agreement resulted from a compliance review of a wide range of Pueblo's programs, services, and activities. They agreed to make modifications to its facilities (parking, routes of travel into buildings, entrances, toilet rooms, bathrooms, service counters, telephones, drinking fountains, playgrounds, and wheelchair

seating) to ensure they are accessible to people with disabilities. The city also agreed to expand the provision of effective communication, adopt appropriate TTY call-taking procedures for its 9-1-1 emergency services, provide law enforcement officers with information and guidance on effective communication with people who are deaf or hard of hearing, appoint an ADA advisory committee, and train employees on the ADA.

- The Department entered an agreement with **New Hope, Alabama** resolving a complaint regarding the city's jail and city hall (in the same building) which alleges they are not accessible for those with mobility impairments. The city agreed to "book" and house prisoners or detainees with mobility impairments in accessible facilities in a neighboring county jail. The city will also provide accessible door hardware throughout the facility, a van-accessible parking space and access aisle, a text telephone, proper bathroom signage, and an accessible drinking fountain.
- **New Jersey Department of Human Services, Division of Family Development, Trenton, New Jersey** entered an agreement with the Hudson County Board of Social Services resolving a complaint alleging that they failed to provide a sign language interpreter at two meetings with a deaf client on whether she was qualified for benefits she had received. The State Department of Human Services agreed to provide appropriate auxiliary aids, when necessary, to ensure effective communication, train all Division of Family Development employees who have contact with the public on their ADA responsibilities, and pay \$2,426 to the complainant.
- **The Movies at Midway, Rehoboth Beach, Delaware** -- The Department entered into a settlement agreement with Midway Realty Corporation, the owner of The Movies at Midway, a 14-screen theater complex. This agreement resolved a complaint made by a hearing impaired individual who alleged that, despite continuing complaints, the theaters were not equipped with an assistive listening system, despite being recently renovated. Under the agreement, the theater owner will install additional receivers for the assistive listening system it later installed, develop policies and procedures to ensure that customers who are hard of hearing have ready access to the system, train appropriate theater staff to operate, maintain, and assist customers in using the system, and pay damages in the amount of \$500 to the complainant.
- A settlement was reached with a privately owned childcare center (**Rieck Avenue Country Day School**) in Millville, New Jersey that had allegedly refused enrollment to a youngster with cerebral palsy and epilepsy in a summer program. The child, who had just finished first grade and had been attending public school and daycare since the age of eighteen months, required no additional assistance with daily care or age-appropriate activities and no modifications to the center's activities or programs. The only

exception is that staff members needed to be generally knowledgeable regarding her occasional seizures, and the after affects of tiredness and/or fall asleep. The day school agreed to adopt a policy of nondiscrimination, publicize the policy in their handbooks for parents and employees, and provide training to employees on the ADA obligations of child care providers. It also agreed to pay \$4,000 in compensatory damages.

- The Supreme Court ruled in May that **private individuals may sue States for damages** in cases where access to courts under Title II of the Americans with Disabilities Act is denied. Plaintiffs sued the State of Tennessee and 25 of its counties alleging that they had violated the ADA by operating inaccessible courthouses. The plaintiffs asked that the courts be made accessible and to grant them compensatory damages. The Court limited its ruling to Title II cases to enforce constitutional guarantees relating to court access. Among these rights are the right to be present at his or her trial, the right to have a meaningful opportunity to be heard, the right to a trial by a jury that reflects a cross section of the community, and the right of the public to have access to criminal proceedings. The Court pointed to the record of unconstitutional treatment of persons with disabilities by State agencies in a variety of settings, including voting, commitment, institutional abuse and neglect, zoning, prisons, public education, and the administration of justice. It also held that Title II's court access requirements were a "proportional" response to a pattern of unconstitutional behavior identified by Congress. Because the Court limited its ruling to court access, litigation on whether sovereign immunity bars Title II cases addressing issues other than court access will continue.
- The Supreme Court has decided to let stand two courts of appeals decisions regarding **stadium-style movie theaters** at the request of the DOJ. In both cases, (Cinemark USA and Regal Cinemas), the appellate courts ruled in favor of the plaintiffs' arguments that the quality of viewing angles be considered in deciding whether sight lines for accessible seating are "comparable" to those offered to the general public. In both cases plaintiffs claimed that the seating located close to the screen resulting in such extreme angles for viewing that they caused physical discomfort and image distortion. Both theaters argued that line of sight only meant that sight lines be unobstructed. The Supreme Court ruled that the ADA requires more than merely unobstructed sight lines, and that the Access Board and the Department of Justice are in the process of developing revised ADA Standards for Accessible Design that are likely to address this issue and to eliminate the conflict in the courts of appeals.
- Parkway Hospital, a private hospital in Queens, New York, agreed to provide **sign language interpreter services** with the patients and their relatives who need these services, in an effective manner and pay compensatory damages to the family of a deceased former deaf patient. This decree settled a lawsuit

alleging that Parkway discriminated against persons who are hearing impaired and those related to or associated with them. The complaint alleged that, during the extended hospitalization of a 77 year old deaf patient (now deceased), the Hospital failed to provide a qualified sign language interpreter for her and her husband in the spring of 2001. The patient, was admitted into the emergency room in critical condition and during her stay, the Hospital relied on lipreading, handwriting, and a staff member with limited sign language skills for communication, including risky surgical procedures. The patient's adult children finally acted as interpreters between their parents and the hospital's staff. The consent decree requires Parkway to provide qualified sign language interpreters (which may include audio-video interpreting services) to patients and their family members who are hearing impaired and whose primary means of communication is sign language. It also requires the hospital to provide on-site interpreters when audio-video interpreting services will not be effective.

- The U.S. Attorney's Office for the Western District of Tennessee agreed to a consent decree resolving its lawsuit against The Bette Bus Shuttle, Inc. (a private provider of fixed route transportation between Memphis, Tennessee, and the airport at Little Rock, Arkansas), and its successor company, Metro Services, Inc. of Moscow, Tennessee. The Attorney's office received a complaint alleging that **bus service was not providing wheelchair-accessible vans and the staff refused to allow the complainant to take her wheelchair with her on its inaccessible vans.** The complainant was required to travel without her wheelchair, which she uses for mobility, severely limiting her ability to leave her hotel room. The Bette Bus owner acknowledged purchasing a minimum of six 15-passenger vans since 1990, which were not lift-equipped. The company also admitted they had never provided service to people with disabilities because of potential expense and the possibility of requiring medical personnel on busses. The consent order requires the Defendants 1) immediately provide a lift on one vehicle and equip more fixed-route vehicles with lifts in the future, 2) eliminate discriminatory policies, train employees to assist persons with disabilities, and 3) pay \$1,000 in damages and \$500 in civil penalties.

MEDIATION

- In Iowa, an blind individual complained about a rude restaurant manager who advised her not to return because she uses **a guide dog.** The owner apologized, posted signs indicating that service animals are welcome in the restaurant, made a \$50 donation to a guide dog program in honor of the customer and her guide dog, and published a letter of apology in a local newspaper.
- In Ohio, a hearing impaired person complained that **assistive listening devices were not properly maintained at a local movie theater.** The

company agreed to conduct headset maintenance checks week in nearly 100 theaters and to provide its employees with annual maintenance training. They also posted signs indicating that equipment for assistive listening was available at all ticket booths in each theater. In addition, the theater company trained all customer service personnel on the requirements of the ADA and on skills for interacting with people with disabilities, including customers who are deaf and hard of hearing.

- In Alabama, the family of a person with a mobility impairment complained about **the accessibility of a small motel**. The motel has installed two van-accessible spaces, extended the ramp to the entrance walkway to reduce the slope, removed the threshold between the restaurant and motel, and altered one guestroom to make the bathroom accessible.
- In Missouri, a wheelchair user complained about the **lack of accessible parking** at an automobile dealership. The dealership agreed to build a ramp to the entrance and to restripe the parking lot for a van-accessible space. In addition, the dealership agreed to provide ADA training to its employees and to pay the complainant \$1,000.
- In Arizona, a wheelchair user alleged that an attorney's **office was inaccessible**. The building owner created a level surface at the entrance to provide wheelchair access to the office. The owner also agreed to develop and enforce a policy requiring all office tenants to maintain accessible furniture arrangements and, when requested, actively assist clients with disabilities when requested.
- In Florida, a person who is deaf alleged that a doctor's office did not **provide effective communication** during an office visit. The doctor's office developed and implemented a written policy for all office staff members outlining the procedure for providing sign language interpreter services.
- In Texas, a wheelchair user complained that a mall parking lot did not have enough **accessible parking spaces or an accessible route** to some businesses in the inner portion of the mall. The property owners installed five accessible parking spaces with appropriate signage, including two van-accessible spaces, at locations around the mall. They also removed a "reserved" sign from an accessible parking space that had previously been restricted to patient use by a doctor's office, making it available to all customers with disabilities. The property owners installed curb cuts in the parking lot and a ramp with handrails to provide access from the parking lot to previously inaccessible businesses.
- A disability advocacy group complained that designated **accessible parking spaces** in a Missouri shopping center parking lot were on steeply sloped areas. The respondent modified the parking lot by relocating the existing

accessible spaces, with appropriate signage, to an area that did not exceed a two percent slope.

- A person who is deaf and uses a service animal was **refused service** at a restaurant in Texas. The restaurant agreed to provide ADA training at all of its management training sessions and to post a sign at the entrance welcoming customers with service animals.
- In Oklahoma, a wheelchair user complained that a retreat center's **lodging was inaccessible**. The owner agreed to install accessible parking and signage, including van-accessible spaces, at the edge of the parking lot ramp leading to the cabin entry. The front entries to the motel and lodge were modified and lever handles installed. The owner also made some guestrooms accessible, including one with a roll-in shower.
- In Oregon, a person with a developmental disability, accompanied by a job coach from a social service agency, was **denied service** at a restaurant because the restaurant host believed the individual was going to behave in an unacceptable manner because of his disability. The owner of the restaurant sent a written apology to the agency for the incident and ensured the agency that no person with a disability would be refused service in the future.

MEDICARE NEWS

- Public forums on proposed changes to the State's Medicaid Program are being held around the State. Health care provisions cover people with disabilities, elderly, and low-income residents of New Hampshire. "GraniteCare" reduces the number of nursing home beds by 1/3, and introduces health savings accounts for women and children and chronically ill patients that would have their limits waived. Some recipients would be allowed to remain in their homes while others would receive funds at year end. Doctors would receive increased reimbursements. Any restructuring to Medicaid needs to be approved by the NH Legislature while federal health officials would need to approve the funds at risk in the final funding arrangement of the program.
- Anticipating a shift of more Medicaid costs to the states, the nation's governors are mounting a bipartisan lobbying effort to stave off new federal limits on the program. Medicaid is costing the states and federal government more than \$300 billion a year. The program's growth has outpaced revenues and is now a larger component of state spending than elementary and secondary education combined. Both Republican and Democratic Governors said in interviews that in the coming months they would push hard to preserve or increase their current Medicaid allotments.

MEDICAL NEWS

- Donepezil, used to treat symptoms of Alzheimer's disease may also help those with **multiple sclerosis, who have memory problems**. For an initial study of 69 MS patients with mild impairments, the outlook was promising but more definitive studies are still needed. These memory problems included attention span, recall, and processing affecting 40-65% of MS patients.
- Treatment with a thyroid hormone boosts the **replacement of the insulating sheath around brain neurons** in test animals with a chronic demyelinating disease. Since this is the underlying problem in MS, the researchers believe this therapy could be useful for patients with the disease. Reports have shown that the hormone is needed for the precursor cells to mature normally and become myelin-producing cells. There is evidence that thyroid function is altered in MS patients. Scientists believe the hormone could have a role in inducing these cells to differentiate into myelinating cells at specific times.
- The discovery of **a gene tied to blindness** may help doctors save sight of thousands say British scientists. The Leeds University team located the DNA code behind a rare form of retinal disease that runs in families and said their discovery should enable doctors to understand and treat more common forms which are affected by the growth of abnormal eye blood vessels. For more information see the American Journal of Human Genetics.
- Texas researchers may have discovered what causes **psoriasis**, a common and irritating skin ailment, and said their findings may open the way to an effective treatment. They found that it takes a combination of a protein called STAT3 and an active immune system to cause psoriasis, affecting an estimated 2 percent of the population. Their finding, published in the journal Nature Medicine, suggests that psoriasis may start with an overenthusiastic attempt by the body to heal wounds. Psoriasis is a chronic condition in which patches of skin become inflamed and become itchy, red, and flaky.
- New test found for **Devic's syndrome** through the Mayo Clinic. They have developed the first test for neuromyelitis optica or NMO, a blinding, paralyzing disease often misdiagnosed as multiple sclerosis. The test, which looks for a newly identified central nervous system autoantibody in a sample of blood, will help speed diagnosis and treatment. NMO, also called Devic's syndrome, affects the optic nerves and spinal cord.

HELPFUL GUIDE

- The EEOC has produced "How to Comply with the Americans with Disabilities Act: A Guide for Restaurants and Other Food Service Employers", and posted it on their website. The 3-Part Guide is written in question and answer format and is now available at: http://www.eeoc.gov/facts/restaurant_guide.html

MINI-SEMINARS BEGIN

- The Governor's Commission on Disability has begun its Winter/Spring Mini-Seminar Series again. During the February workshop the focus will be on: ADA Accessibility Guidelines, ANSI A117.1-1998 Part I: Scoping; Accessibility Basics; Building and Site Elements and in March it will be ADA Guidelines, ANSI A117.1-1998 Part III: Plumbing & Communication Elements and Features Communication Elements. The April workshop features multi-Chemical Sensitivity and May's workshop will be on *Driveability* from Exeter Hospital.

NEWSLINE

- Lifetime learning, including detailed awareness of current events, is part of what makes a good citizen, a successful professional, and a valuable participant in community life. There is no substitute for current information about events in our community, nation, and world. **NFB-Newsline** is provided FREE to anyone who is blind or has a disability by the National Federation of the Blind. Subscribers use Touch-Tone phones to read current copies of over 150 newspapers and 3 magazines, and is available 24/7. To subscribe: contact the New Hampshire State Library at (800) 491-4200 or send an email to talking@library.state.nh.us and ask to subscribe to **NFB-Newsline**.
- A free presentation titled "Smart Advocating: Asserting Your Rights In Special Education Meetings Without Burning Bridges" will be held **Tuesday, March 8, 2005, from 6:00 - 8:00 pm** at the Franklin Pierce Law Center, Rich Room, 2 White Street, Concord, NH. The public is welcome to attend this seminar organized and delivered by Séamus Boyce, a student at Franklin Pierce Law Center, as part of his Albert Schweitzer Fellowship. His presentation will cover the topic of how to effectively advocate for your child with special needs in meetings without destroying a relationship with the school or the district. After briefly covering the basic parental rights, he will discuss various strategies for effective advocacy. During a mock meeting, attendees will have the opportunity to see some of these strategies in action. A short question and answer session will follow. Refreshments will be provided by Education-A-Must, a leading educational advocacy group in New England.

To attend, please RSVP to Séamus Boyce at: Tel: 608-6297; e-mail: sboyce@piercelaw.edu so he can assure adequate seating, refreshments and handouts.

TAX TIPS FROM IRS

- Once again it is time to take out our calculators and prepare our 2004 taxes... but the IRS is trying to make the process as painless as possible. In fact, according to the IRS, you may be able to take the Credit for the Elderly or

People with Disabilities if you are age 65 or older, or if you are retired on permanent and total disability. Like any other tax credit, it's a dollar-for-dollar reduction of your tax bill. The maximum credit available is \$1,125.

You can take the credit for the elderly or people with disabilities if: 1. You are a qualified individual; 2. Your adjusted gross income is not more than \$12,500 to \$25,000 (depending on your filing status); and 3. Your non-taxable income from Social Security or other non-taxable pension is not more than \$3,750 to \$7,500 (also depending on your filing status).

Generally, you are a qualified individual for this credit if you are a U.S. citizen or resident at the end of the tax year and you are age 65 or older, or you are under 65, retired on permanent and total disability, received taxable disability income, and did not reach mandatory retirement age before the tax year.

If you are under age 65, you can qualify for the credit only if you are retired on permanent and total disability. You also must have taxable disability income to qualify. You are retired on permanent and total disability if: 1. You were permanently and totally disabled when you retired; and 2. You retired on disability before the end of the tax year.

Even if you do not retire formally, you are considered retired on disability when you have stopped working because of your disability. If you are under 65, you must have your physician complete a statement certifying that you were permanently and totally disabled on the date you retired.

For more information, see IRS Publication 554, "Credit for the Elderly or the Disabled," which you may obtain from the IRS Web site at www.irs.gov or by calling the IRS toll free line at 1-800-TAX-FORM (1-800-829-3676).

TAX BREAKS FOR COMPANIES THAT HIRE PEOPLE WITH DISABILITIES

- By hiring people with disabilities, businesses can take advantage of tax benefits offered by the federal government and explained in the Frequently Asked Questions section on the Office of Disability Employment Policy (ODEP's) web site at www.dol.gov/odep. They include:
 - The Work Opportunity Tax Credit - which allows employers tax credits of up to \$2,400 for hiring people with disabilities:
 - The Small Business Tax Credit: IRS Code Section 44, Disabled Access Credit - which helps small businesses cover the cost of making their businesses accessible, up to a maximum benefit of \$5,000; and
 - The Architectural/ Transportation Tax Deduction: IRS Code Section 190, Barrier Removal - which allows businesses an annual deduction of

up to \$15,000 for expenses incurred in removing certain barriers at the workplace.

- ODEP is trying to educate companies about these tax breaks and offers employers a variety of methods to help find and hire people with disabilities, including:
 - The Job Accommodation Network (JAN), a toll-free information and referral service on job accommodations for people with disabilities located at 1-800-526-7234 or at www.jan.wvu.edu , and
 - The Employer Assistance Referral Network (EARN), a national toll-free telephone and electronic information referral service designed to assist employers in locating and recruiting qualified workers with disabilities. EARN can be reached at 1-866-Earn Now (1-866-327-6669) or via its Web site: www.earnworks.com
- ODEP also encourages employers and employees to access www.DisabilityInfo.gov, a cross-government web site on disability. Employers can also contact their State's Vocational Rehabilitation offices or the Governor's Commission on Disability.

EVENTS

- 14th Annual New England Cystic Fibrosis Ski Challenge: On March 11-13 of this year, Attitash will again host the Ski Challenge! In addition to fun and prizes, all money raised by the ski event and the silent auction (between Jan 1st thru March 7th) will go to support research and care centers in the US. For more information on the web go to cfskichallenge05.cmarket.com or call (800) 757-0203.

ONE COMMUNITY: A LEADERSHIP CONFERENCE - MARCH 8 & 9

Mark your calendars now for the Third Conference on Disabilities, Diversity, Employment, and Education entitled "**One Community: A Leadership Conference Promoting Living, Learning and Working Together**" to be held March 8th & 9th 2005 at the Crowne Plaza Hotel, Nashua, NH, sponsored by the NH Minority Health Office. **Keynote Speakers include Kari Heisted, Nationally known Culture Coach and Fulbright Scholar Russell Weatherspoon, Dean of Residential Life, Phillips Exeter Academy.**

Who Should Attend? Business people; Educators; Consumers; Service Providers; Workforce personnel; Policy Makers and anyone interested in creating a more cohesive community.

Objectives: Learn strategies to bring together diverse communities; Experience a variety of new technologies; Increase your resource network; Expand your business potential.

For more information, costs and registration forms, call 271-5991 (Voice) or 1-888-396-3459 (TTY). Alternate formats will be available. Below are just some of the titles of the workshops offered during the two days:

Navigating Cross-Cultural Communications - Participants will discuss how culture manifests in provider/client interactions, in the workplace, and in their communities. Participants will also identify strategies for connecting across cultural lines.

Assistive Technology Solutions in Minutes: Tapping into Hidden Resources in Your Community - Eighty percent of AT solutions cost less than \$100 and can be obtained without traveling more than 10 miles. This workshop will explore creative uses of more than 25 resources in your community such as hardware stores, recycled materials around the home, department stores, and more.

Expectations and Responsibilities of Employers - Developing a “diverse” workforce leads to a strong workforce. Learn to embrace your responsibilities as an employer, set appropriate expectations for your organization, challenge your assumptions and encourage human resource management to help you achieve your business goals

Taking the Fear out of Hiring Individuals with Vision Loss - Employer expectations, accommodations, realities, orientation to the work place, alternate format and employer questions

Working Dogs: National Education for Assistance Dog Services (NEADS) - Learn about the different ways that service animals assist individuals with disabilities; these canine workers bring security, mobility, and independence to their human partners

Self-Directed Vocational Services: Results of a New Hampshire Demonstration - results of the Individual CareerAccount NH (ICA) and the impact of an individualized vocational planning and budgeting process

Staying Ahead of the Curve: Employer Best Practices for a Mature Workforce - What are older workers really like, the myths and stereotypes? What can employers do to retain and/or retrain your mature workforce?

Welcoming Workplaces: Characteristics of Workplace Culture That Support and Profit from a Diverse Workforce - analyzing workplace cultures and strategies to provide employment services to individuals with disabilities

Employment and Individuals with Disabilities – an overview of MEAD (Medicaid for Employed Adults with Disabilities) and SSDI/SSI work incentives

Barriers to Employment for Persons with Disabilities - an overview of data on employment outcomes for people with disabilities in NH.

Accommodating Disabilities You Can’t See - issues faced by people in the workplace with “invisible” mental health disabilities

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